

**NOTICE OF PROPOSED ACTION
TO BUILDING STANDARDS OF THE
CALIFORNIA BUILDING STANDARDS COMMISSION**

**REGARDING THE CALIFORNIA GREEN BUILDING STANDARDS CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 11**

BSC-EF-03-15

Notice is hereby given that the California Building Standards Commission (CBSC) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 11. The CBSC is proposing building standards related to reduction of indoor water use.

PUBLIC COMMENT PERIOD

(Government Code Section 11346.5(a)(17))

A public hearing has not been scheduled; however, written comments will be accepted from **November 6, 2015, until 5:00 PM on December 21, 2015**. Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: Michael L. Nearman, Acting Executive Director

Written Comments may be E-mailed to CBSC@dgs.ca.gov.

Any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the California Building Standards Commission to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

(Government Code Section 11346.5(a)(18)), (Government Code Section 11346.8(c))

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

(Government Code Section 11346.5(a)(2))

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Sections 18930.5, 18937, 18938, and 18940.5; Government Code Section 11346.1, and Section 30, Governor's Executive Order No. B-29-15 (April 1, 2015). The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code Sections 18930.5, 18937, 18938, and 18940.5; Government Code Section 11346.1.

INFORMATIVE DIGEST

(Government Code Section 11346.5(a)(3))

An informative digest drafted in plain English in a format similar to the Legislative Counsel's Digest shall include the following:

Summary of Existing Laws

H&SC 18930.5 grants CBSC the authority, if no state agency has the authority or expertise to propose green building standards applicable to a particular occupancy, to adopt, approve, codify, update, and publish green building standards for those occupancies.

H&SC Section 18934.5 sets forth that, where no state agency has the authority to adopt building standards applicable to state buildings, the commission shall adopt, approve, codify, and publish building standards providing the minimum standards for the design and construction of state buildings.

H&SC 18937 provides that the commissioners shall act on emergency standards within 30 days, and they must act on the merit of the emergency finding as well as on the proposed standards.

H&SC 18938 requires the filing of emergency standards with the Secretary of State by CBSC only after they have been approved by the commissioners. It requires that the standards become effective when filed Secretary of State or at a later date specified in the standards, and that they be published in Title 24.

H&SC 18940.5 requires that agencies that propose green building standards for inclusion in Part 11 of Title 24 of the California Code of Regulations shall, to the extent that it is feasible, reference or reprint the green building standards in other relevant portions of Part 2, 2.5, 3, 4, 5, or 6 of Title 24 of the California Code of Regulations. For purposes of compliance with this section, the republication of the provisions of Part 11 of Title 24 of the California Code of Regulations in other parts of Title 24 of the California Code of Regulations shall not be considered duplication in violation of paragraph (1) of subdivision (a) of Section 18930.

GC Section 11346.1(e) states that no regulation, amendment, or order of repeal initially adopted as an emergency regulatory action shall remain in effect more than 180 days unless the adopting agency has complied with Sections 11346.2 to 11347.3, inclusive, either before adopting an emergency regulation or within the 180-day period. The adopting agency, prior to the expiration of the 180-day period, shall transmit to the office for filing with the Secretary of State the adopted regulation, amendment, or order of repeal, the rulemaking file, and a certification that Sections 11346.2 to 11347.3, inclusive, were complied with either before the emergency regulation was adopted or within the 180-day period.

Summary of Existing Regulations

The California Green Building Standards Code (Part 11, Title 24, California Code of Regulations) contains mandatory flow rates for urinals in nonresidential occupancies, which are also specified in Title 20 of the California Code of Regulations (as adopted by the Energy Commission).

Summary of Effect

This proposed action will make permanent, upon approval by the commissioners, emergency modifications to the California Plumbing Code that reference appropriate CALGreen standards for buildings within CBSC authority, were approved by the commission on October 21, 2015, and have a delayed effective date of January 1, 2016, to align with similar emergency Appliance Efficiency Regulations adopted by the California Energy Commission in Title 20, California Code of Regulations. These emergency building standards necessitated immediate action to avoid serious harm to the public peace, health, safety, and general welfare in response to ongoing drought conditions and the subsequent State of Emergency proclamations and Executive Order No. B-29-15 issued by the Governor.

Comparable Federal Statute or Regulations

These regulations seek to align with similar Title 20 Appliance Efficiency Regulations adopted by the California Energy Commission. Both the Title 20 and Title 24 regulations align with, and in some cases are more stringent than the WaterSense standards relative to plumbing fixture flow rates developed by the U.S. Environmental Protection Association.

Policy Statement Overview

CBSC is responsible for the development of green building standards for nonresidential occupancies for which no other state agency has authority or expertise.

Evaluation of consistency

The proposed action is not incompatible or inconsistent with existing regulations. This proposed action will align specified regulations in Title 24 with those in Title 20 and prevent incompatible/inconsistent regulations.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

(Government Code Section 11346.5(a)(4))

The California Energy Commission develops and maintains the Appliance Efficiency Regulations contained within Sections 1601-1609 of Title 20, California Code of Regulations, which prohibit the sale or offer for sale of specified noncompliant plumbing fixtures, effective January 1, 2016. One particular type of plumbing fixture regulated by this section of Title 20 is currently allowed for installation by the California Plumbing and Green Building Standards Codes (Parts 5 and 11 of Title 24, California Code of Regulations). Specifically, the Title 20 regulations prohibit the sale of wall-mounted urinals with a maximum flow rate of greater than .125 gallons-per-flush (GPF) in nonresidential construction. Additionally, the California Energy Code (Part 6, Title 24, California Code of Regulations) states that any appliance regulated by the Appliance Efficiency Regulations, Title 20 California Code of Regulations, Section 1601 et seq., may be installed only if the appliance fully complies with Section 1608(a) of those regulations. CBSC has determined that, pursuant to the recently adopted Title 20 emergency regulations as well as existing regulations within the California Energy Code, wall-mounted urinals with a maximum flow rate of greater than .125 GPF may not be installed on or after January 1, 2016. Therefore, in order to prevent a conflict between Title 20 and Title 24, CBSC is proposing the permanent adoption of this emergency building standard regulation that will align the installation requirements for wall-mounted urinals in nonresidential construction to those recently adopted by the CEC in Title 20.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

(Government Code Section 11346.5(a)(5))

CBSC has determined that projects following this regulation would not impose a mandate on local agencies or school districts because the requirements are already mandatory, as adopted by the California Energy Commission into Title 20 of the California Code of Regulations.

ESTIMATE OF COST OR SAVINGS

(Government Code Section 11346.5(a)(6)) An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district. Provide a copy of the "Economic and Fiscal Impact Statement" (Form 399)

- A. Cost or Savings to any state agency: **NO**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- D. Other nondiscretionary cost or savings imposed on local agencies: **NO**
- E. Cost or savings in federal funding to the state: **NO**

Estimate: **NONE**

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

(Government Code Section 11346.5(a)(8)) If the agency makes an initial determination that the adoption/amendment/repeal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

The CBSC has made an initial determination that the adoption/amendment/repeal of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

(Government Code Section 11346.5(a)(8)) The declaration the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

The CBSC affirms that the rulemaking action complies with the mandates set forth by the Health & Safety Code, Section 18928, & 18934.5. Therefore, the CBSC's initial determination of no significant, statewide adverse economic impact directly affecting business in California and their ability to compete with businesses in other states does not require any additional evidence, documents or other evidence to support this action.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

(Government Code Section 11346.3(d)). Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

The CBSC has made an assessment of the proposed code changes and has determined that these changes do not require a report.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

(Government Code Section 11346.5(a)(9)) Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact provide the following statement:

The CBSC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

(Government Code Section 11346.5(a)(10), Government Code Section 11346.3(b)(1))

The CBSC has assessed whether or not and to what extent this proposal will affect the following:

- ☐ The creation or elimination of jobs within the State of California.

These regulations will not affect the creation or elimination of jobs within the State.
- ☐ The creation of new businesses or the elimination of existing businesses within the State of California.

These regulations will not affect the creation or elimination of businesses within the State.
- ☐ The expansion of businesses currently doing business with the State of California.

These regulations will not affect the expansion of businesses currently doing business within the State.
- ☐ The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

This regulation may help alleviate the negative impacts of ongoing drought conditions by promoting the conservation and efficient use of water, preventing water waste, and preserving the state's severely depleted water supplies (drinking water, agricultural production, etc.).

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

(Government Code Section 11346.5(a)(12)) requires that an action that would impact housing shall include the estimated cost of compliance and potential benefits of a building standard, if any, that were included in the initial statement of reasons. In addition, the agency officers shall make available to the public, upon request, the agency's evaluation, if any, of the effect of the proposed regulatory action on housing costs

The CBSC has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

(Government Code Section 11346.5(a)(13))

The CBSC has determined that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the

purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF RULEMAKING DOCUMENTS

(Government Code Section 11346.5(a)(20)), (Government Code Section 11346.5(a)(19))

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov/>

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

Government Code Section 11346.5(a)(21) states that CBSC shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

(Government Code Section 11346.5(a)(14))

General questions regarding procedural and administrative issues should be addressed to:

Michael L. Nearman, Acting Executive Director

2525 Natomas Park Drive, Suite 130

Sacramento, CA 95833

Telephone No.: (916) 263-0916

Michael.Nearman@dgs.ca.gov

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Kevin Day, Staff Services Manager I (Specialist)

California Building Standards Commission

2525 Natomas Park Drive, Suite 130

Sacramento, CA 95833

Telephone No: (916) 263-0355

kevin.day@dgs.ca.gov

Back-up:

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